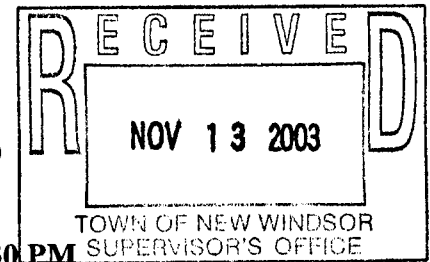




Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4615
Fax: (845) 563-4693

OFFICE OF THE PLANNING BOARD



WEDNESDAY NOVEMBER 12, 2003 — 7:30 PM
TENTATIVE AGENDA

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES DATED: SEPTEMBER 24, 2003

ANNUAL MOBILE HOME PARK REVIEW:

- a. HILL & DALE MOBILE HOME PARK

PUBLIC HEARINGS:

1. **CELLULAR ONE SITE PLAN (03-29) TOLEMAN ROAD (CHAZEN)** Proposed telecommunication equipment on existing tower with accessory building.

REGULAR ITEMS:

2. **MOORES HILL ESTATES SUBDIVISION (98-4) MOORES HILL ROAD (TORRO)** Proposed 13-lot residential subdivision.
3. **ANGELO SAKADELIS / NEW WINDSOR POWER EQUIPMENT LOT LINE CHANGE (03-28) RT. 207 (SAKADELIS)** Proposed lot line change between two commercial properties.
4. **SUMMIT-ON-HUDSON (PLUM POINT) SUBDIVISION (#03-35) RT. 9W (CAPPELLO)** Proposed two-lot subdivision.

DISCUSSION:

5. **ANGELO ESTATES – TOLEMAN ROAD**
6. **LIGHTNING LUBE – FROM WORKSHOP (Edsall)**
7. **ROOSJE / TRAINOR – PRIVATE ROAD (Edsall)**

ADJOURNMENT

(NEXT MEETING – DECEMBER 10, 2003)

TOWN OF NEW WINDSOR

PLANNING BOARD

NOVEMBER 12, 2003

MEMBERS PRESENT: JAMES PETRO, CHAIRMAN
JERRY ARGENIO
THOMAS KARNAVEZOS
NEIL SCHLESINGER
ERIC MASON

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
PLANNING BOARD ATTORNEY

MYRA MASON
PLANNING BOARD SECRETARY

HENRY KROLL
HIGHWAY SUPERINTENDENT

ABSENT: JIM BRESNAN
RON LANDER

REGULAR MEETING

MR. PETRO: I'd like to call the November 12, 2003 meeting of the Town of New Windsor Planning Board to order. Would everyone please stand for the Pledge of Allegiance?

(Whereupon, the Pledge of Allegiance was recited.)

APPROVAL OF MINUTES DATED: SEPTEMBER 24, 2003

MR. PETRO: Has everyone had a change to read the minutes dated September 24, 2003?

MR. ARGENIO: Make a motion we approve them as written.

MR. KARNAVEZOS: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board adopt the minutes as written. Any additions or corrections from anybody? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

ANNUAL MOBILE HOME PARK REVIEW:

HILL & DALE MOBILE HOME PARK

Mr. Joe Hershel appeared before the board for this proposal.

MR. PETRO: For one year extension. Mike, has someone from your department been to the site and do you have any additions or corrections or anything to go over?

MR. BABCOCK: Yes, we have, Mr. Chairman, everything's fine as usual there.

MR. PETRO: Twenty-one single trailers, one double. Okay, do you have a check for \$110 made out to the Town of New Windsor?

MR. HERSHEL: I do.

MR. PETRO: Any questions?

MR. ARGENIO: Make a motion for one year extension for Hill & Dale.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant one year extension to the annual mobile home park review for Hill & Dale Mobile Home Park. Is there any further discussion? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

PUBLIC HEARINGS:

CELLULAR ONE SITE PLAN (03-29)

Neil Alexander, Esq., Ms. Eva Billeci and Mr. Kevin Brennan appeared before the board for this proposal.

MR. PETRO: Cellular One site plan on Toleman Road represented by Chazen. Proposed telecommunication equipment on existing tower with accessory building. You've gone to the zoning board, is that correct?

MR. ALEXANDER: That's correct.

MR. PETRO: Reason for going to the zoning board and you have it on the plan. Go ahead.

MR. ALEXANDER: Good evening, my name is Neil Alexander, I'm with the law firm of Cuddy & Feder LLP. Also with me tonight is Eva Billeci with Chazen Engineering and Kevin Brennan from Cellular One. To answer your question first is we obtained a use variance with regard to the development of a wireless facility on this property in a residential zone.

MR. PETRO: Just briefly, this tower already exists, it's there and you're just adding to it all?

MR. ALEXANDER: Exactly.

MR. PETRO: You're going up how much further?

MR. ALEXANDER: We're not increasing it, it's a 224 foot tower. We're looking to put six antennas approximately at the 173 foot mark. The antennas are roughly 48 inches by eight inches by six and a half inches, they'll be mounted on a triangular platform. Just to show you on the plan I think it's in the other plans, what's up there right now I think this does a nice job, since there are a lot of different antennas

up there and guy wires, this is the installation that Cellular One's looking to put, that gives a perspective of the scale, and what we believe to be a minimal visual impact, given the existing structure that's there at grade, there's already a 300 square foot L-shaped building. What we're looking to do is put in our own pre-fabricated 12 x 20 foot, excuse me, 12 x 20 foot equipment shelter. The way we would configure it we'd use it as an outside wall to the existing structure and create the most minimal amount of need for additional fencing. We'd also fence in per the recommendations of staff the entrance to our equipment shelter so it would become effectively a fully enclosed compound area. And the existing road as you all may be aware is not in the greatest repair so we're proposing to put down Item 4, oil and shale grading improvements were not possible rather because of the fact that we only have a 15 foot wide entrance point.

MR. PETRO: Stay within the easement, correct?

MR. ALEXANDER: Exactly, that's the problem.

MR. SCHLESINGER: What type of equipment is in the shed?

MR. ALEXANDER: It's a computer and electrical equipment cabinets, the facility's completely unmanned, no sewage, no waste water equipment, cabinets have alarms built in so if something goes wrong, it sends a signal, maintenance technician would come out. Assuming no emergency situation, maintenance technicians will come out quarterly and it's generally an hour to two hour visit. That's about it.

MR. SCHLESINGER: Tower is supported by support wires and everything?

MR. ALEXANDER: It has existing support wires, we provided a structural report. There will be an

additional need to bolster those support wires. We also did provide recently Chazen provided you one of their co-consultants, a tower failure, the way these guy wire structures work, they basically implode, they don't fall out, an upside turning event doesn't occur because of the guy wiring, I think it was Mid State Consultants.

MS. BILLECI: Tower Craft Engineering.

MR. ALEXANDER: Basically provided you that the fall zone is 60 feet.

MR. PETRO: We have all the documentation from Tower Craft Engineering, PC verifying what the gentleman is saying about the falling. I think couple of the members had asked for some information on if the tower should fall where it would and how it would fall, basically falls in on itself?

MR. BRENNAN: Yes.

MR. ALEXANDER: Exactly.

MR. PETRO: Okay, this is a public hearing.

MR. BRENNAN: Can we have, excuse me, we want to make one correction, it's 9 antennas, three each sector, not two each sector so I'd like the record to note on our application it's 9.

MR. PETRO: On the 28th day of October, 2003, 20 addressed envelopes containing the notices were mailed out. If anyone is here who'd like to speak for or against the application be recognized by the Chair, come forward, state your name and address and your concern. Is there anyone here who'd like to speak?

MR. PACELLA: Yeah, I live at--Carl Pacella, I live at 5 Vance Lane, which is behind it, Vance is here and

Toleman's here, but the tower's right in my back yard. My one questions with the regular phone line, not the cordless, but the regular one, I'm already getting interference, the radio station coming through the regular phone line. Am I going to get any interference from this stuff?

MR. BRENNAN: Absolutely not.

MR. PETRO: His problem has nothing to do with your apparatus.

MR. BRENNAN: Our signal is broadcast in the old UHF frequency at the 850 megahertz frequency and I don't--where are you getting the interference?

MR. PACELLA: Regular phone line, not the cordless but the regular one.

MR. BRENNAN: No, he would not have any interference with us because the two have absolutely nothing to do with each other.

MR. PETRO: You're saying it's not possible?

MR. BRENNAN: We verify if he ever had a problem, we would bring an engineer out there and verify that it's not us, we would--

MR. PACELLA: I have only been there two years.

MR. BRENNAN: If it's existing now, it would not be us because we're not there turned on so we'll turn it on and turn it off and prove to the gentleman or anyone else that we're not the ones creating the interference. That's not to say that the FM tower might be creating some problem but I'm not an engineer to handle that part of it. I doubt it.

MR. PACELLA: I guess that's the only thing I had,

really, it's not going to affect, it's not like regular electricity power line so it's not going to do anything to us, right?

MR. ARGENIO: That's what they're telling us.

MR. PETRO: Okay.

MR. SCHLESINGER: You'll know down the road.

MR. PETRO: Thank you. Any other comments? Motion to close the public hearing.

MR. ARGENIO: I'll make it.

MR. KARNAVEZOS: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board close the public hearing for the Cellular One proposed co-location on existing tower on Toleman Road. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. PETRO: At this time, I'll reopen the application back to the board members for any further review. Mark, you have number 3 here, you want to go over that real briefly?

MR. EDSALL: Three was basically just confirming that we've got a decision from the Zoning Board on file, Andy and Mike can confirm since they were at the meeting that they received their use variance. I also

understand that it was determined that it was not a special permit, obviously, because they have received the use variance, so the record should probably be clear that this was not a mandated public hearing, it was just a site plan public hearing, not one related to a special permit.

MR. ALEXANDER: Right, we had asked for the public hearing ahead before the decision so last thing we want to do is preclude the public from having an opportunity to speak.

MR. EDSALL: As far as my comments go, they have answered all the issues relative to the structural integrity of the tower. They'll need to get a building permit when they make the modifications to the guy wires, they have submitted information on that, it's on our file but Mike will need a copy with the permit which is normal procedure. The road is fine. I've gong over that with the applicant and as they said, they are doing everything they can do, the idea of putting oil and chip is that may improve the tracks to get up the steep hill rather than just have loose gravel.

MR. PETRO: I just asked Myra also as far as lead agency is concerned, I would have thought that we would have taken lead agency. She informs me that we did not, the public is here because you requested a public hearing.

MR. ALEXANDER: Right, I think if I may speak to SEQRA just quickly, the zoning board did an uncoordinated review relative to the request for interpretation and use variance, we provided them with a short form EAF to make that determination, we have provided your board with the full EAF so if you want to, and a short, too.

MR. PETRO: Motion for lead agency.

MR. ARGENIO: So moved.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare itself lead agency for the Cellular One of New Windsor proposed co-location on existing tower on Toleman Road. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. PETRO: We've already had a public hearing so at this time, I'd entertain a motion for negative dec.

MR. ARGENIO: So moved.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare a negative dec for the Cellular One of New Windsor application. Any further comments from anybody? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. PETRO: We've seen this a number of times, you have

the necessary variances and they're put on the plan as Mark has requested. I don't think we have anything else to go over.

MR. EDSALL: Add the condition that they submit the normal bond estimate for the site improvements.

MR. PETRO: So noted. Is there anything else from any of the board members. If not, I'll entertain a motion for final approval.

MR. ARGENIO: Make a motion for final approval subject to the bond estimate that Mark just mentioned.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval subject to the bond estimate for Cellular One of New Windsor on Toleman Road. We have Highway approval on 10/2/2003 and fire approval on 10/5/2003. Is there any further comments from anybody? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. PETRO: Thank you.

MR. ALEXANDER: Thank you very much for your time.

REGULAR ITEMS:

MOORES HILL ESTATES SUBDIVISION (98-4)

Mr. Larry Torro appeared before the board for this proposal.

MR. PETRO: Proposed 13 lot residential subdivision. Parcel involves subdivision of 22.2 acre parcel into 13 single family lots. The project has been before the board for several years. The approval has been delayed due to outside agency approvals. Given the time since we have reviewed these plans, I request that a condition of final review include a final approval by planning board engineer in compliance with applicable comments in previous comments prior to stamp of approval. You're saying if anything's changed since the last time we looked at it?

MR. EDSALL: I don't believe they have any, but just because it's been dormant for a number of years, just give me a chance to look at it one more time. I know the final plans just came in, it's been around for a long time.

MR. TORRO: I think the biggest thing would be the storm water management issues.

MR. ARGENIO: What outside agency was the issue?

MR. TORRO: There's several, Army Corps of Engineers, DEC, State Historic Preservation was the biggest one.

MR. ARGENIO: So you had a whole list of things.

MR. PETRO: We also have our new Highway Superintendent in the meantime also who's a little unfamiliar or is familiar with the site. Henry, do you want to go over it, just briefly tell him what you want?

MR. KROLL: Sight distance there is not very good, I'd like a study or did you do a study of it?

MR. TORRO: That was one of the issues at the preliminary approval process that they looked at it and the road was shifted as best as possible to optimize the sight distances in that location.

MR. KROLL: Did you do any, a study though to see if it was safe with the sight distance?

MR. TORRO: As far as what?

MR. KROLL: Adequate sight distance.

MR. TORRO: Yes.

MR. KROLL: I want to see that.

MR. TORRO: I'll put the sight distances on the plan.

MR. PETRO: I'll let you work it out with him, make him happy. Once he sees it, it's between you guys, I won't get in the middle of it.

MR. EDSALL: Jim, we referred the public improvement bond estimate over to the Town Board already and I believe they might of approved it.

MR. TORRO: Yes, they approved it.

MR. PETRO: Mark, why don't you go over this plan and see what really needs to be updated because they're not here since '99.

MR. EDSALL: I don't know that they're, none of the zoning changes would have affected them because they would have been grandfathered as with all other applications. What I want to just make sure is that there are no outstanding comments because it's been not

around for quite a while, I don't think there are any, I mean, Larry and I have worked on resolving those mid course.

MR. TORRO: I think at the preliminary approval process things at that point left open were just approval of the utilities and things like that. I said the only thing that really popped up that's different from the preliminary was the issue of the storm water management basin and that Mark informed me now that it's required a drainage district which we have to petition to the Town Board to get that going and that would be part of the condition of approval, that would require that.

MR. PETRO: How are you going to obtain sewer capacity for these lots?

MR. TORRO: At the time of preliminary approval, that was purchased through Majestic Sewer Corporation at that time, that was prior to the Supervisor signing the application for the sewer main extension that was required that that be purchased at this point, so that's been purchased back in '99 or 2000 already.

MR. PETRO: So moratorium is not affecting this, Mark, in any way? I have it here, let me tell you what I have here, on August 9, 1999, from the Sewer Department, at that time it was disapproved, sewer type must be conformed to code, sewer extension approved or not approved, so they didn't know at that time where it stood. So I think you're going to have to resolve that and find out, I'm not disputing what you're saying but we need to know one way or the other because I don't have it here. I would need for this also to be approved.

MR. TORRO: All right.

MR. PETRO: Mark, you're going to have to get that and find out.

MR. EDSALL: Yes, so they've got obviously the drainage district, we'll check on the sewer, they have to get sight distance information to Henry and this is exactly to be honest with you why I wanted to make sure that it have a final review because it's one of the few applications that's been around for so long.

MR. PETRO: We have fire approval on 8/9/1999 and I don't see anything at that time that was in question, there was some that you have, was earlier, quite a bit of it, actually, but looks like you've worked on that and may have complied with it. Mark, you should probably take a look at these notes of 1/22/1998 and go over that, make sure they're all implemented on the plan from the Fire Department.

MR. EDSALL: Okay.

MR. PETRO: We have municipal water, I don't necessary see that he as a problem because if it was, predates moratorium, Mark, but you've got to check the fire one pretty extensive and I have no way of knowing, does say up here approved eight months later, but I don't know what was done.

MR. EDSALL: So the fire comment's from January 22, '98?

MR. PETRO: Correct.

MR. PETRO: We went over the sewer and I think that's it. Henry's taking care of the highway.

MR. EDSALL: Drainage district as well cause that's a requirement new since they started.

MR. PETRO: Offers of dedication to the Town attorney, you have to go through that, that's just normal procedure at this time.

MR. TORRO: Posting of bonds.

MR. PETRO: Board should verify the dates of procedural steps, we have done some of that already, the public hearing, SEQRA actions, et cetera. Myra, maybe you can make a note and have that somewhere on here for me. You already have them all in?

MS. MASON: Yes.

MR. PETRO: Lead agency 8/25/1999, negative dec 8/25/1999, and we had a public hearing on 8/25/1999. Now, I'm not saying you would or you would not possibly need another public hearing, depending on what Mark's going to find, I don't think he's going to find any major differences from any codes or anything that we need to update that I'm sure that this plan and that public hearing would suffice in my opinion, but I'm not going to say for sure. Let's see what he comes up with, what it looks like and it should be okay. Mark, anything else to add tonight?

MR. EDSALL: I think we've got a little work to do.

MR. EDSALL: It's a good list and these in conjunction I'll go back through the file and try to make sure everything else has been resolved.

MR. PETRO: It could be all non-problems.

MR. TORRO: I realize the application has been around for a slight period of time.

MR. PETRO: Yes. Okay, we didn't just do it in '99, it was prior to that for a number of years. Okay, thank you. Henry, excuse me, Tom brings up a point, if you look up Moores Hill Road on the main entrance going in there's three driveways all coming in right next to his main road going in, you might be able to take them off

Moores Hill and put them on their drive and get all the curb cuts off.

MR. BABCOCK: Some of those are existing, right?

MR. KROLL: Well, actually, you want to keep as much road off the road as possible.

MR. KARNAVEZOS: Right.

MR. BABCOCK: But there was a minor subdivision of this parcel, the houses along Moores Hill are already constructed.

MR. KARNAVEZOS: But these are, these houses back up here, they're more towards the south.

MR. KROLL: I'll take a look at the plan.

MR. PETRO: Just take a look at it when you meet in the field because that's what you're going to do.

MR. KROLL: We won't allow anymore on Moores Hill Road.

MR. EDSALL: One of the problems they ran into if I'm remembering, it's so old, it's hard to remember, is that some of the driveways they couldn't take back into the new road because that driveway would then have to cross more wetlands and the Corps wouldn't let them disturb those areas, so when we look at that, they may explain that the wetlands are prohibiting certain crossings.

ANGELO SAKADELIS/NEW WINDSOR POWER EQUIPMENT LOT LINE
CHANGE (03-28)

Mr. Joseph Sorrace and Mr. Angelo Sakadelis appeared before the board for this proposal.

MR. PETRO: Proposed lot line change between two commercial properties. This project involves a lot line revision transferring quarter acre from lot two to 3.1. The plan was previously reviewed at the 8 October 2003 planning board meeting. The plan has been revised in response to comments at the October 8 meeting, I think what we had asked for was very simply to show a display area in the front of the property and just outline where you're going to have tractors for display or lawn mowers or whatever you want to put out, that that was numb 1. Number 2, we had also asked there was a drainage problem somewhere maybe Henry you can be able to shed some light on this and you were going to look into the drainage problem.

MR. KROLL: They have repaired the drainage problem.

MR. PETRO: It's done, you don't have to discuss it again.

MR. KROLL: Correct.

MR. PETRO: Forget that, let's go back to the display area, tell us what you're planning on doing.

MR. SORACE: If you look on the plan just below the north arrow on the left-hand side we're proposing a display area of total size of 12 x 40 and inside that 12 x 40 area we designate four areas at 6 x 12 and two areas at 8 x 12.

MR. PETRO: So you have six parking spots basically for again tractors, Bobcats, whatever you have written in there on the front of the property?

MR. SORACE: Yes.

MR. PETRO: And it's all on your property, I see it's not in the right-of-way?

MR. SORACE: That's correct, sir.

MR. PETRO: I don't think that would not be in the sight distance or in the way of anything coming out of that parking lot cause it looks like it's set back there pretty good. Where is it on this big plan? I see it, okay. Again, you're doing the lot line change because you're going to convey the property from the house?

MR. SORACE: Yes.

MR. PETRO: To your property, is that what you're doing to your property, you're making, you're augmenting your property?

MR. SAKADELIS: Right.

MR. SORACE: The current renter of that lot, that building is going to purchase the building and the land from Mr. Sakadelis.

MR. PETRO: Yeah, well, he already has that, a lot of the storage is already on that property behind the house, so just trying to keep it--

MR. SAKADELIS: Get a little more space.

MR. PETRO: What about fencing and landscaping along that line, I know you have a fence there, I see the fence when I read ride by, that's basically it.

MR. SAKADELIS: It's clean.

MR. BABCOCK: You mean along the north side, Mr. Chairman?

MR. PETRO: Yes.

MR. BABCOCK: Yes, there's a fence there and then there's, it's all woods from there all the way back, I think that's MTA property.

MR. PETRO: It's almost naturally screened.

MR. BABCOCK: Yes, nobody will ever build there, I don't think MTA will do anything.

MR. PETRO: I really think you've answered everything because we only asked for those two items, I think that was pretty--

MR. SORACE: That and Mark asked for items to be added to the bulk.

MR. PETRO: We have fire approval on 10/6/2003 and Highway approval on 11/12/2003. Mark, kind of cut him off, were you satisfied with the bulk table?

MR. EDSALL: Yes, everything we asked to get fixed has been taken care of.

MR. PETRO: Henry, you're all set, Mr. Kroll?

MR. KROLL: Yes.

MR. EDSALL: You have consideration of a negative dec is procedurally the remaining step.

MR. PETRO: So let's go to the need for a public hearing, gentlemen, I think he's complied, our only concern was to show a display area kind of neaten up the front of the property while he was here and the drainage, certainly, I don't think we're really

changing much on the property, other than the line of the property between the house and where he is, so any comment for a public hearing?

MR. ARGENIO: I don't see the need for it, unless somebody feels differently.

MR. KARNAVEZOS: Make a motion we waive the public hearing.

MR. MASON: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board waive the public hearing for the Sakadelis/Power Equipment lot line change on Little Britain Road. Any further discussion from the board members? If not, roll roll.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. PETRO: Entertain a motion for a negative dec.

MR. ARGENIO: So moved.

MR. MASON: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare a negative dec for the Sakadelis/Power Equipment lot line change on Little Britain Road. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR. SCHLESINGER AYE
MR. MASON AYE
MR. KARNAVEZOS AYE
MR. ARGENIO AYE
MR. PETRO AYE

MR. PETRO: I don't think there's any subject-to here that I know of.

MR. ARGENIO: Mark?

MR. EDSALL: No, everything's fine.

MR. PETRO: Motion for final approval.

MR. ARGENIO: Final approval for the Sakadelis/Power equipment.

MR. MASON: Second it.

MR. PETRO: Motion has been made and seconded for final approval to the Sakadelis/Power Equipment lot line change on Little Britain Road. Any further comment from any of the board members? I'll make one comment, you have the six spots for display, we didn't ask for blacktop or anything of that nature, I think it's a pre-existing, it's been there a long time and I know it's shale, hasn't been any problems, if it encroaches over the six spots now and you're going to have your recourse through the building or fire department to kind of keep an eye on it, that's the beauty of a site plan. So it's up to you to monitor that and make sure the six doesn't grow into 30 and have farm tractors all over the place and stuff like that.

MR. SAKADELIS: Understand.

MR. PETRO: You'd have to use common sense, if you put two little four-wheelers instead of a big farm tractor, I don't think that's the concern, like Mark says, it's

all confined in the area, just if they're strewn all over the place.

MR. EDSALL: We're not concerned about the combination of what he has out there, as long as it's within that area that you've shown us.

MR. PETRO: Correct. We still have a motion before the board, it's been made and seconded, any other discussion? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

SUMMIT-ON-HUDSON (PLUM POINT) SUBDIVISION (03-35)

Gerald Jacobowitz, Esq. appeared before the board for this proposal.

MR. PETRO: Application proposes formal subdivision of the southerly portion of the Section 6 of the Plum Point condo project into two lots. Now, this again goes along the school district line, let me forget all this because I need to clarify something first. This property that you want to subdivide along the school district line--how are you doing?

MR. JACOBOWITZ: Good evening, Mr. Chairman, how are you? I lost a lot of weight, you couldn't see me?

MR. PETRO: I just looked up, I think I see a Godly figure there or something.

MR. JACOBOWITZ: Well, bless you.

MR. PETRO: Let me ask you this, Mr. Jacobowitz, do we have frontage on Lafayette Drive which I believe is a paper road, Mark, but are we going, is that legally--

MR. EDSALL: This section it's a paper road.

MR. PETRO: Here's my concern. We need to have frontage on the Town road to create the subdivision as far as the Town is concerned.

MR. BABCOCK: Jim, I think there's one issue I don't know that we're talking about a subdivision, we're actually talking about a lot line change.

MR. PETRO: Okay, well, explain that to me, do that for me, where is the existing lot line as it is now and I know where we're going to because I know the Cornwall line there, school line.

MR. JACOBOWITZ: This property is two tax map parcels already, so what we're asking for is for us to confirm that it is two lots, for subdivision purposes, it's already two tax lot parcels 81-1-2 and 81-1-3.42.

MR. PETRO: But again, we don't allow the school district to dictate to us that they're creating two separate lots.

MR. BABCOCK: Jim, they do.

MR. EDSALL: Well, for tax purposes, right, in other words, by virtue of the necessity to have separate tax bills for the different portions of the parcel, it's two tax lots for purposes of this board's approval that they be separate and distinct lots, no, that's what they're here for.

MR. PETRO: Oh, but they're not already existing?

MR. EDSALL: They're existing tax lots but for purposes of the--

MR. PETRO: Where is the lot line here? It's still one big piece as far as we're concerned, as far as the municipality is saying it's one large lot, if you took away the school district lines, it's one large lot, correct?

MR. JACOBOWITZ: Yes.

MR. PETRO: Okay, once we do this lot line change and I'm not so sure that it is a lot line change, I kind of disagree, I think it's a subdivision, you're taking one large lot and making two lots so why that's not a subdivision, I'm not quite so sure. If we create this second lot, where is the frontage for the second lot and can we put it on the paper road for further development?

MR. JACOBOWITZ: Well, Lafayette Drive we have an easement over Lafayette Drive as a matter of right because we adjoin that road in two places 119 plus feet, 115 plus feet. So we have an easement and right-of-way over whatever Lafayette Drive is as a paper street so that would be our access via our easement over Lafayette Drive.

MR. PETRO: I'm not opposed to that, just want to make sure that that's correct, they can accept that. I don't know why they can't because here's what I'm thinking about and I don't know that you're going to do this and I'm not insinuating this or anything, this could be cut off of here and let go for taxes because nobody cares about it, it's sitting there, there's no way to get to it, it's a landlocked piece, who knows what could happen with it, if someone could come in and purchase the property and come in off Lafayette Drive, it has a value. So you may not ever do that or the owner, whoever the owner would be and therefore, it would have a value, be a good piece of property. But we need to be able to get to it, first of all, I can't create a subdivision and I'm going to call it a subdivision till somebody proves that it's a lot line change, cause I don't know where we're moving the lot line to or from. I don't think we're moving it, you're creating it along the tax map line. So Mark, my question again is I guess to you is can we use that frontage of 115 feet, 119 feet on Lafayette Drive which doesn't exist but it's a paper road and they have an easement over it as frontage for this new lot that we're creating? I'm not opposed to that. I want to know if it's legal and it's the right thing to do.

MR. EDSALL: I don't know that I'm the right one to say it's legal, but I can draw on some experience on what we dealt with with MacNary, MacNary Lane where an applicant desired a subdivision and that subdivision had frontage on a Town property and it was not an improved Town road and the Town's decision was that

until it was improved, they weren't going to consider that as road frontage. And that particular applicant decided that it would be best to sue the Town of New Windsor and the court agreed with the Town that a Town property is not road frontage, had to be actual improved road. But that's why we're down here, apologize for kind of talking, not listening, but I was talking to the Highway Superintendent as to where the road ends and where it might be possible to create road frontage.

MR. PETRO: Ends back into the trailer park, correct, it's not too far in there, just go back?

MR. KROLL: Straight down the hill and stops.

MR. EDSALL: Looks as if where the property's road is and Bonano are probably where the road ends, so there's the potential of if there was the ability to create a turnaround of sorts or an extension, we've got the 119 plus 25 which is very close to the existing road.

MR. PETRO: If I'm hearing you correct, what I would suggest is that the applicant, if he wants to make this subdivision and have it be a separate parcel of property, he should maybe improve the road to that point, so you have frontage on this property.

MR. JACOBOWITZ: When we're going to do something with this piece, we would have to take care of the issue of access because the building inspector isn't going to issue a building permit unless you show that there is adequate access over either a public road, a road on a subdivision map or a road on the official map. This is a road that's on a filed subdivision map so we'll have to come in and show that. Now, he will say I'm not issuing a building permit until you show that the access is adequate, adequate under the law is that there's a safe means of ingress for all types of emergency vehicles and we can't get the building permit

until we do that. Now, that decision is made by the Zoning Board, as crazy as the system is, the issue of adequate access over a paper street is done by the ZBA so we're going to have to go through that whole process before we're going to be able to do anything on this piece.

MR.E PTRO: What would stop, you're the applicant, from going to the Town and saying look, you just created a lot on this Town road, evidently, you picked this frontage, now build it, tell the Town to build the road. Same thing we went through with MacNary at the Town's expense to bring the road into your property, if we're creating that lot, I mean, that would be if I was thinking along those lines, I would say listen--

MR. JACOBOWITZ: My mind isn't as--

MR. PETRO: Well, after 13 years, you kind of think of all the little angles. That's a pretty good angle.

MR. JACOBOWITZ: We don't want the Town to build a road, no, so we can put that in here as a condition on the subdivision plan, a note that the applicant recognizes there's no obligation by the Town to construct Lafayette Drive.

MR. PETRO: Again, it's this applicant.

MR. JACOBOWITZ: Runs with the title. And that's, and the reason I'd like to be a little indeterminate, we're not sure whether the road should come in at the left or right end here, it all depends on what is going to happen to this property. So rather than try to determine today where the road access is going to enter into the property, as long as the Town's protected which it is under the structure of approvals that have to be obtained, adequate access, adequate has to be satisfactory to the ZBA, and adequate is defined as being suitable access for emergency vehicles and other

vehicles.

MR. PETRO: Why not do the subdivision when you're ready to start building and you know where the road's going, why do it now, for what reason?

MR. JACOBOWITZ: Because having this piece as part of lot 2 creates problems for us in lot 2 because we're mortgaging separately, our land use plan for lot 2 is a separate, separate plan and we need to have, we now have two separate tax map parcels, but we only have one title here and the bank says show us where it was ever subdivided and we have to show it was subdivided. So that's why we're here to create these two lots so that we don't have a problem with lot 2 and lot 1 that's in the future and we'll have to satisfy all the hurdles then.

MR. PETRO: Let me direct this question, and Andy, I want it as very simple, almost a yes and no answer, I want to ask you something. Can this board create a separate lot on a paper road, can we use Lafayette Drive as frontage for this lot, is that a legal thing that we can do?

MR. KRIEGER: No.

MR. PETRO: So we're under his advice, we can't do it even if we want to, everybody is here, ready to go.

MR. EDSALL: My concern would be inconsistency in the fact that you have already gone this route with another applicant, made a determination, went to court, had the Town's determination upheld and now you'd be coming up with a determination completely opposite of what you have already done. What I suggest they do and it may be the most expedient way of solving it, show both sides of the Lafayette Drive paper road so we can get an idea of orientation, show physically where the road ends, it may be that they can put in 100 foot of

pavement on the existing Town property and effectively extend the improved road so that there's street frontage, although as Gerry indicates, they may want to access from the other side, fine, but from from this board's standard point, you're going to create 125 foot of road frontage, street frontage which is what the code calls for if they ever use it, fine.

MR. ARGENIO: You're saying create the frontage?

MR. EDSALL: You're not talking about 5,000 foot of road.

MR. JACOBOWITZ: The Town road ends now approximately 100 and some feet.

MR. EDSALL: I'm not sure but I'm hearing from everyone the driveways extend down the Town paper road but the road doesn't, so if you put in 150 foot of pavement, you've got frontage and the whole issue goes away.

MR. PETRO: I think I suggested that earlier.

MR. EDSALL: Just going along with a good idea.

MR. EDSALL: I'm not sure how many feet until they show us where it ends.

MR. SCHLESINGER: They have 119.

MR. EDSALL: Plus 25 when it turns.

MR. SCHLESINGER: Okay.

MR. EDSALL: So you can very easily create that an the issue goes away.

MR. JACOBOWITZ: Okay, that makes sense.

MR. PETRO: Simple, right?

MR. JACOBOWITZ: Sure.

MR. PETRO: Then I have no problem at all, so that would be a condition of approval is that what you're saying, Mark, a condition of approval to improve the road?

MR. EDSALL: Well, I don't know whether or not you've got enough information, that's up to you, I mean, I'd like to see a survey that picks up, I mean, they've got all the topo here, they've got one side of the right-of-way, be nice if we had the other side of the right-of-way and an idea of what's going on in this one little area. I've got some other issues here that they've got no bulk table, they've got to give us proposed compliance for lot widths, for road frontage, I think what Mike had asked that they make sure they give us on the record for the Plum Point condo project and again, talking to Izzy, we know it meets it, but record should be clear, show that the density for the Plum Point project with this parcel subtracted still is in compliance because the original site plan approval included this 7 acres. Now it's not going to, so they've got to do that. Gerry can answer the other question I have here as to whether or not A.G. has to be involved at all, obviously.

MR. JACOBOWITZ: No.

MR. EDSALL: Water and sewer I guess you should tell us if not that now the lot areas depend on it, but just a note as to whether or not there's water and sewer service to the lot. Here's a copy, Gerry, I don't think there's anything insurmountable, we need some more information on the plan.

MR. PETRO: Lead agency shouldn't be a problem.

MR. EDSALL: You've got no other involved agencies.

MR. PETRO: Motion to that effect.

MR. ARGENIO: So moved.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and second that the New Windsor Planning Board declare itself lead agency for the Plum Point on the Hudson minor subdivision off Lafayette Drive. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. ARGENIO: I have one question, we're calling this a subdivision?

MR. PETRO: Correct.

MR. BABCOCK: That was my mistake.

MR. KRIEGER: Legally all lot line applications have to be considered subdivisions legally anyway.

MR. EDSALL: This isn't a lot line.

MR. BABCOCK: That was my mistake, it's a subdivision.

MR. KROLL: There was a problem with driveways, I think somebody has an easement for a driveway, the second house in.

MR. JACOBOWITZ: I don't know the answer.

MR. KROLL: You have to find out.

MR. JACOBOWITZ: Which lot do you mean?

MR. KROLL: It's not marked there.

MR. EDSALL: Probably one of these two Bonano properties.

MR. KROLL: There's two houses right at the end of the road as you're going down on the right-hand side, both driveways come in there and there was a problem with that.

MR. EDSALL: You can have Mr. Walden just verify at least research this corner of the paper road and make sure that is in fact wholly a Town property. And I don't know how the Town would have an easement over it, they'd be using the Town's road as or Town's property as access. As long as he tells us that there's no easements there and that it's a Town right-of-way, I think you're in good shape.

MR. PETRO: Show us 125 feet of frontage on the Town road, improved Town road and any technical comments from Mark and seems like it's pretty good.

MR. JACOBOWITZ: Can you give us a hearing date and we'll get the plan back to Mark?

MR. PETRO: For public hearing?

MR. JACOBOWITZ: Yes.

MR. PETRO: I think we should really wait on that until you find out more about the road because I mean we're not positive you can get the 125 feet, you have easements and cross-easements and is it going to happen?

MR. JACOBOWITZ: Yeah, we've got 125 feet here of frontage, 119 plus 25.

MR. PETRO: We can authorize a public hearing and when you're ready then at least you don't have to come back, we can move forward, do that, if you want to do that. Is anybody opposed to that? Whenever he's ready, he can just contact Myra, Mark reviews it and he's ready to go with a public hearing. Motion to that effect.

MR. ARGENIO: So moved.

MR. KARNAVEZOS: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board authorize a public hearing for the Plum Point on the Hudson minor subdivision off Lafayette Drive. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

DISCUSSION:ANGELO ESTATES

MR. KRIEGER: Here's the situation. Edward Biagini owned a large parcel of property, sold part or the, he sold the whole parcel to a buyer with the provision that they would sell him back part of the parcel which he would then apply to subdivide. All this has happened, it's happened in the past that he's done this particular mechanism. Now, selling, in doing it in that way creates an illegal subdivision because he's subdividing the property before he's getting the approval for this property for this subdivision here. In the past, he's done it here and it's been overlooked because he would get the consent of the, for want of a different term, I'll call the interim owner so everybody was on board with this and the application was complete. In this particular case, for reasons that I don't know, the persons to whom he sold the entire parcel have refused to come in and apply for a subdivision. He then took back part of the parcel anyway under his contract with them and now he comes before the board seeking to subdivide that parcel without a proxy. He has been told that the planning board will not accept an application without the consent of the other owners. And that's a determination that he's taking issue with. I ask for it to be put on discussion cause I just want to make sure that the board is aware of what's going on and Mark and I and Myra weren't getting ahead of what the board would like in terms of demanding him that he produce that proxy before he--

MR. PETRO: What other avenue does he have?

MR. KRIEGER: Sue him in Supreme Court, I suppose.

MR. PETRO: Would it be civil between him and the other property owner not to deal with the municipality?

MR. KRIEGER: It would be civil between.

MR. ARGENIO: Where is it, Andy, I'm just curious?

MR. KRIEGER: That's a good question. Where is Highview Estates?

MS. MASON: Right there, give him the map, off Shaw Road.

MR. PETRO: I felt that he was being, for lack of a better term, held hostage by the other property owner, they don't get along, they're refusing to, I don't know the whole deal, but he has a piece of property he's paying taxes on it but he can't do a thing with it.

MR. KRIEGER: Well, he may be held hostage, but the fact of the matter is this scheme he invited this.

MR. ARGENIO: It backfired on him, essentially.

MR. KRIEGER: He invited this on himself.

MR. EDSALL: Andy's use of the word scheme is very appropriate because in my mind, if you're going to have property owners circumvent your subdivision regulations by selling an entire parcel and then buying back a parcel and as Andy said doing a piece of it and effectively doing an illegal subdivision and allowing the tail to wag the dog, have them determine before you get a chance to look at it how it's going to be split up, you might as well close up shop and not have a planning board.

MR. ARGENIO: He essentially did a deal at his own risk, is that what we're talking about? And it backfired.

MR. BABCOCK: Submitted a subdivision plan here before

that took place.

MR. EDSALL: But he's done these type of partial sales before.

MR. BABCOCK: He submitted the original subdivision plan for the 3 lot subdivision and he got a building permit to build one house on the existing lot. When he got to a point of finishing the house, he didn't get the subdivision completed. Along comes this buyer, wants to buy the house, the only way he can do that which I'm not saying this is right is he sold them the entire parcel and then when the subdivision's complete, the other two lots revert back to him. Sounds simpler to me.

MR. SCHLESINGER: How can he build without getting an approval?

MR. BABCOCK: He got one building permit for the existing lot.

MR. ARGENIO: He can't, that's where the problem is.

MR. KRIEGER: What he did, Neil, is he sold the entire parcel to the buyers, now he seeks to take back 2/3 of the parcel and in turn resubdivide that and--

MR. SCHLESINGER: After using one part of the parcel building on it?

MR. KRIEGER: Yes, after already having a de facto subdivision by selling off what amounts to a third, in other words, he's using this buy-back mechanism to circumvent straightforward subdividing ahead of time, I'm just going to--

MR. SCHLESINGER: Right, so how do we avoid that?

MR. KRIEGER: If you tell him no, he can't apply now

for a subdivision, now he's in a situation where there's a dispute between him and the overall buyers, whatever the nature of that dispute is, I don't know, and frankly, I don't care cause they're going to, he's going to turn around and say I have a deed to these remaining 2/3 and they're gonna say that's an illegal subdivision and according to the law, if you deed off property and subdivide property without prior planning board approval, it's a nullity.

MR. EDSALL: Did he buy back the portion already or does he have a contract to buy it back?

MR. KRIEGER: It was deeded back, I'm going to avoid the term buy back because I don't know the nature of, the exact nature of the transaction.

MR. EDSALL: It was deeded back?

MR. KRIEGER: It was deeded back from what I understand, he, Mr. Biagini had a contract with the buyers and it said I'm going to deed the whole parcel to you, the whole thing but are going to sign a deed for 2/3 of it back to me which I'm going to hold and if you don't agree when I get ready to subdivide that if you don't go along with this and sign I'm going to record that deed anyway.

MR. PETRO: All right, gentlemen, gentlemen, Andy, the bottom line is this board cannot take action at this time, again, nothing to do with us. Until it's resolved, we either need a proxy from the current owner that Mr. Biagini can represent him on that property, correct, we need a proxy?

MR. KRIEGER: Correct, if he wants to proceed, we need a proxy, that's my position, I understand that's Mark's position and Myra's position, so if I'm wrong, we just wanted to make sure that we're not getting out ahead of what--

November 12, 2003

39

MR. PETRO: Seems like it's cut and dry. I asked if there's any other way around it, you said no. So we need a proxy, therefore, we can't do it.

LIGHTENING LUBE

MR. EDSALL: Lightning Lube came into the workshop because they're desirous of setting up a two truck truck rental operation out of the office that they run there. Lightning Lube is similar to a U-Haul type situation, another vendor, and they would be tying up two parking spaces to have these two vehicles there, small trucks. And I told them the issue was parking. They went through a long description of how the inside of the Jiffy Lube or Lightning Lube operation has changed, we looked through the parking calculations and low and behold and I actually came up with these calculations, not them, they have two spare parking spaces. My question to you is do you want a site plan application or want Mike and I just to work out if they have the two access spaces, they'll be allowed to use those two for that purpose?

MR. PETRO: You and Mike work it out.

ROOJSE/TRAINOR

MR. EDSALL: You had a subdivision off of an existing private road, you asked that the private road be upgraded. They mistakenly showed the normal Town private road detail with 18 foot of traveled way, three foot shoulders on each side and three foot swales. When they went to build it, number one, they don't need the swales cause it's so flat, there's no drainage, just basically sheet flow across the whole site. Henry was, you confirmed it, said there's no, absolutely no reason for swales, that's something we'll deal with in the field. We agreed to have them taken off. The next problem is there's tree lines existing along the old road, they can't get three foot shoulders on each side, they can get one foot shoulders, so they would end up with a 20 foot improved area instead of 24. Again, this is an existing private road that's being upgraded. They're requesting that you consider as you have on other upgrades of old private roads to allow them just to have the 20 foot so they don't have to go in and clear cut down all the trees that were planted along the old private road.

MR. PETRO: Highway Superintendent doesn't have a problem with it?

MR. KROLL: No, I would rather keep it the way it is.

MR. PETRO: Any of the planning board members have any problems?

MR. ARGENIO: Unquestionably should stay the way it is.

MR. EDSALL: I'll let them know. I'm sure they'll appreciate it.

MR. PETRO: Motion to adjourn.

MR. ARGENIO: So moved.

November 12, 2003

42

MR. SCHLESINGER: Second it.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

Respectfully Submitted By:



Frances Roth
Stenographer

11/20/03